



Administrative Assistant to the Selectmen

Stu Marckoon
606 Douglas Hwy
Lamoine, ME 04605
(207) 667-2242

town@lamoine-me.gov

To: Selectmen
From: Stu
Re: RSU Vote Reconsideration
Date: January 28, 2009

At your request last meeting, I have investigated the procedure to employ to reverse the vote of December 9, 2008 to approve the RSU. The bottom line is – you can't.

The following outlines the conversations I've had on the matter:

1/26/09

Conversation with Omar Norton, Supt. Of Union 92, RSU 24 secretary

There is no provision in the RSU agreement about withdrawal. There is no provision in state law about withdrawing from RSU. Suggested we contact MMA Legal for guidance or State Department of Education.

1/27/09

Conversation with Susan Pilgrim, MMA

Maine law has made no provision. Statute for withdrawing from SAD or Union exists., none for RSU. Look in agreement between towns. Should address withdrawal. Will double check statutes. If nothing, contact Dept. of Education or legislator.

1/28/09

Conversation with Jim Rier, Deputy Commissioner of Education

Mr. Reir says there is no provision in law to withdraw from an RSU at this time. He said the Legislature debated it, and may debate it again this session, but there has been no change to the lack of withdrawal language. He said it is on the radar screen of the Legislature. He said this issue cannot be handled locally and must be tackled in the legislature. He advised that it's a very complex issue and withdrawal would have huge implications on the RSU.

While there is no state statute regarding RSU's yet, there are provisions for withdrawing from an SAD and a school union. Not that it matters in this case, but they are as follows:



Administrative Assistant to the Selectmen

Stu Marckoon
606 Douglas Hwy
Lamoine, ME 04605
(207) 667-2242

town@lamoine-me.gov

20-A §1354. RECONSIDERATION (SAD)

The procedure to reconsider votes taken at a district referendum shall be as follows. [1981, c. 693, §§ 5, 8 (NEW).]

1. Time limit. The board of directors shall, within 60 days, initiate a new district referendum to reconsider the vote of the previous referendum if, within 7 days of the first referendum, at least 10% of the number of voters voting for the gubernatorial candidates in the last gubernatorial election in the municipalities within the district petition to reconsider a prior district referendum vote.

[1981, c. 693, §§ 5, 8 (NEW) .]

2. Required quorum. A reconsideration referendum is not valid unless the number of persons voting in that referendum is at least equal to the number who voted in the prior district referendum.

[1981, c. 693, §§ 5, 8 (NEW) .]

3. Bond. If the margin of the vote being reconsidered was between 10% and 25%, the petitioners shall post a bond with the petition equal to the actual and reasonable costs of the new referendum. If the margin of the vote being reconsidered exceeded 25%, the petitioners shall post an additional bond equal to the actual and reasonable costs which may be incurred as a result of the delay of an authorization or approval granted in the prior district referendum. If the petitioners are successful, the bonds shall be canceled.

20-A §2104. WITHDRAWAL FROM UNION SCHOOL

1. Petition. The residents of a participating municipality within a union school may petition to withdraw from the union in the same manner as they would petition for the dissolution of a union school in accordance with section 2103, except that only a simple majority vote of those casting valid ballots in the municipality is required before the petition may be presented to the school committee and to the commissioner.

[1991, c. 864, §1 (NEW) .]

2. Procedure. The steps set forth in section 1403 for dissolution apply to the withdrawal of a member municipality from a union school, except that:

A. The responsible committee for preparing the withdrawal agreement must be limited to individuals from the municipality; [1991, c. 864, §1 (NEW).]

B. Instead of a union-wide election, a municipal election must be conducted in the municipality petitioning to withdraw and a 2/3 vote of those casting valid ballots in the municipality is required before it may withdraw; [1991, c. 864, §1 (NEW).]

C. Wherever there is reference in section 1403 to the term "dissolution" or other terms not consistent with withdrawal, the term "withdrawal" or other appropriate language must be substituted; [1991, c. 864, §1 (NEW).]

D. All public hearings required under section 1403 must be conducted by the municipal officers; and [1991, c. 864, §1 (NEW).]

E. A municipality may not petition for withdrawal within 2 years after the date of:



Administrative Assistant to the Selectmen

Stu Marckoon
606 Douglas Hwy
Lamoine, ME 04605
(207) 667-2242

town@lamoine-me.gov

- (1) A municipal vote on a petition for withdrawal if the petition received less than 45% of the votes cast; or
- (2) A municipal vote on a withdrawal agreement if the agreement received less than 60% of the votes cast. [1991, c. 864, §1 (NEW).]

[1991, c. 864, §1 (NEW) .]

3. Cost of advisors. The expense of employing competent advisors by the municipality petitioning to withdraw must be borne by the municipality and the expense of employing competent advisors by the union must be borne by the union with the municipality bearing its share according to the union's cost-sharing agreement.

[1991, c. 864, §1 (NEW) .]

4. Commissioner-recommended dissolution. The commissioner's responsibilities to initiate dissolution proceedings are as follows.

A. If a member town in a union school votes to withdraw from the union, the commissioner shall determine the educational impact of the town's withdrawal upon the union. The union's school committees and the municipal officers from the remaining towns must be consulted. [1991, c. 864, §1 (NEW) .]

B. If the commissioner finds that it is impractical for the remaining towns to continue as a union, the commissioner must initiate the dissolution process set out in section 1403 by having the union submit the following article to the voters at a union meeting called in accordance with sections 1351 to 1354.

"Article: Be it resolved by the voters of Union School No. that a dissolution committee be appointed and authorized to expend \$..... and the school committees of Union School No. be authorized to issue notes or otherwise pledge the credit of Union School No. in an amount not to exceed \$..... for this purpose?

Yes No"

[1991, c. 864, §1 (NEW) .]

C. If the voters approve the article by a majority vote of those present and voting, the rest of the dissolution process set forth in section 1403 applies except:

- (1) A 2nd member from the general public must be selected by the municipal officers to fill the position on the dissolution committee normally held by a representative of the group that would have filed the dissolution petition; and
 - (2) Costs of preparing a dissolution agreement must be borne solely by the union school.
- [1991, c. 864, §1 (NEW) .]

[1991, c. 864, §1 (NEW) .]

5. Transfer of property. The union's school committees may negotiate with the withdrawal committee regarding an equitable division of the union school's property between the union and the municipality represented by the committee and transfer title of the property to the municipality following withdrawal. The school committees must determine that the union's educational program may not be disrupted solely because of the transfer of any given property before the union's school committees may complete the transfer.